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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/724,254	11/28/2000	Riccardo Dalla-Favera	58044-A/JPW/EMW	5325

7590 06/06/2005

John P White Esquire
Cooper & Dunham LLP
1185 Avenue of the Americas
New York, NY 10036

EXAMINER

CANELLA, KAREN A

ART UNIT	PAPER NUMBER
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1642

DATE MAILED: 06/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/724,254	Applicant(s) DALLA-FAVERA, RICCARDO	
	Examiner * Karen A. Canella	Art Unit 1642	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 43,45-47,69 and 70 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 43,45-47,69 and 70 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

AB

DETAILED ACTION

1. Claims 43, 45-47, 69 and 70 are pending and under consideration.
2. Sections of Title 35, U.S. code not found in this action can be found in a prior action.
3. The rejection of claims 43, 45-47, 69 and 70 under 35 U.S.C. 102(e) as being anticipated by Ashkenazi et al (US 2002/0132252) is maintained for reasons of record.

Claim 43 is drawn to an isolated antibody directed to an IRTA2 protein wherein said IRTA2 protein comprises amino acid sequence of SEQ ID NO:44, 3 or 41. Claim 45 embodies the antibody of claim 43 wherein said antibody is a monoclonal antibody. Claim 46 embodies the antibody of claim 43 wherein the antibody is a murine monoclonal antibody or a humanized monoclonal antibody. Claim 47 embodies the method of claim 43 wherein the antibody is conjugated to a therapeutic agent. Claim 69 embodies the antibody of claim 43 wherein the antibody is a polyclonal antibody. Claim 70 embodies the antibody of claim 47, wherein the therapeutic agent comprises a radioisotope, a toxin or a chemotherapeutic agent.

Ashkenazi et al disclose the PRO820 polypeptide(paragraph 0080) which is identical to residues 1-102 of the instant SEQ ID NO:41, as evidenced by the attached sequence alignment. Ashkenazi et al disclose polyclonal and monoclonal antibodies which bind to the PRO820 polypeptide (paragraphs 3436 and 3438). Ashkenazi et al disclose that the anti-PRO antibodies may comprise humanized antibodies (paragraph 3439), and that the invention also comprises antibodies of the invention conjugated to cytotoxic agents, radioisotopes or chemotherapeutic agents (paragraphs 3466 and 3467).

4. Applicant argues that the M.P.E.P. states (706.02(f)) states that US application publications of applications that claim benefit under 120 or 365(c) of an international application filed prior to November 29, 2000 must be applied under 35 U.S.C. 102(e) as of the actual filing date of the latter filed U.S. application". This has been considered but not found persuasive. Ashkenazi et al claims benefit to

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This application is a Continuation of	<u>09/941,992</u>	08-28-2001	Pending
Which Claims Priority from Provisional Application	<u>60/230,978</u>	09-07-2000	Pending
Which Claims Priority from Provisional Application	<u>60/213,637</u>	06-23-2000	Pending
Which Claims Priority from Provisional Application	<u>60/158,663</u>	10-08-1999	Pending
Which Claims Priority from Provisional Application	<u>60/149,396</u>	08-17-1999	Pending
Which Claims Priority from Provisional Application	<u>60/146,222</u>	07-28-1999	Pending
Which Claims Priority from Provisional Application	<u>60/145,698</u>	07-26-1999	Pending
Which Claims Priority from Provisional Application	<u>60/144,758</u>	07-20-1999	Pending
Which Claims Priority from Provisional Application	<u>60/143,048</u>	07-07-1999	Pending
Which Claims Priority from Provisional Application	<u>60/141,037</u>	06-23-1999	Pending
Which Claims Priority from Provisional Application	<u>60/123,957</u>	03-12-1999	Pending
Which Claims Priority from Provisional Application	<u>60/113,296</u>	12-22-1998	Pending
Which Claims Priority from Provisional Application	<u>60/100,858</u>	09-17-1998	Pending
Which Claims Priority from Provisional Application	<u>60/100,634</u>	09-16-1998	Pending
Which Claims Priority from Provisional Application	<u>60/098,525</u>	08-31-1998	Pending
Which Claims Priority from Provisional Application	<u>60/097,952</u>	08-26-1998	Pending
Which Claims Priority from Provisional Application	<u>60/097,954</u>	08-26-1998	Pending
Which Claims Priority from Provisional Application	<u>60/097,955</u>	08-26-1998	Pending
Which Claims Priority from Provisional Application	<u>60/098,014</u>	08-26-1998	Pending
Which Claims Priority from Provisional Application	<u>60/097,971</u>	08-26-1998	Pending
Which Claims Priority from Provisional Application	<u>60/097,974</u>	08-26-1998	Pending
Which Claims Priority from Provisional Application	<u>60/097,978</u>	08-26-1998	Pending
Which Claims Priority from Provisional Application	<u>60/097,986</u>	08-26-1998	Pending
Which Claims Priority from Provisional Application	<u>60/097,979</u>	08-26-1998	Pending
Which Claims Priority from Provisional Application	<u>60/097,661</u>	08-24-1998	Pending
Which Claims Priority from Provisional Application	<u>60/097,218</u>	08-20-1998	Pending
Which Claims Priority from Provisional Application	<u>60/097,141</u>	08-19-1998	Pending
Which Claims Priority from Provisional Application	<u>60/096,949</u>	08-18-1998	Pending
Which Claims Priority from Provisional Application	<u>60/096,950</u>	08-18-1998	Pending
Which Claims Priority from Provisional Application	<u>60/096,959</u>	08-18-1998	Pending
Which Claims Priority from Provisional Application	<u>60/096,960</u>	08-18-1998	Pending

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Which Claims Priority from Provisional Application	<u>60/096,960</u>	08-18-1998	Pending
Which Claims Priority from Provisional Application	<u>60/097,022</u>	08-18-1998	Pending
Which Claims Priority from Provisional Application	<u>60/096,757</u>	08-17-1998	Pending
Which Claims Priority from Provisional Application	<u>60/096,766</u>	08-17-1998	Pending
Which Claims Priority from Provisional Application	<u>60/096,768</u>	08-17-1998	Pending
Which Claims Priority from Provisional Application	<u>60/096,773</u>	08-17-1998	Pending
Which Claims Priority from Provisional Application	<u>60/096,791</u>	08-17-1998	Pending
Which Claims Priority from Provisional Application	<u>60/096,867</u>	08-17-1998	Pending
Which Claims Priority from Provisional Application	<u>60/096,891</u>	08-17-1998	Pending
Which Claims Priority from Provisional Application	<u>60/096,894</u>	08-17-1998	Pending
Which Claims Priority from Provisional Application	<u>60/096,895</u>	08-17-1998	Pending
Which Claims Priority from Provisional Application	<u>60/096,897</u>	08-17-1998	Pending
Which Claims Priority from Provisional Application	<u>60/096,329</u>	08-12-1998	Pending
Which Claims Priority from Provisional Application	<u>60/096,143</u>	08-11-1998	Pending
Which Claims Priority from Provisional Application	<u>60/096,146</u>	08-11-1998	Pending
Which Claims Priority from Provisional Application	<u>60/095,916</u>	08-10-1998	Pending
Which Claims Priority from Provisional Application	<u>60/095,929</u>	08-10-1998	Pending
Which Claims Priority from Provisional Application	<u>60/096,012</u>	08-10-1998	Pending
Which Claims Priority from Provisional Application	<u>60/095,282</u>	08-04-1998	Pending
Which Claims Priority from Provisional Application	<u>60/095,285</u>	08-04-1998	Pending
Which Claims Priority from Provisional Application	<u>60/095,302</u>	08-04-1998	Pending
Which Claims Priority from Provisional Application	<u>60/095,318</u>	08-04-1998	Pending
Which Claims Priority from Provisional Application	<u>60/095,321</u>	08-04-1998	Pending
Which Claims Priority from Provisional Application	<u>60/095,301</u>	08-04-1998	Pending
Which Claims Priority from Provisional Application	<u>60/095,325</u>	08-04-1998	Pending
Which Claims Priority from Provisional Application	<u>60/094,651</u>	07-30-1998	Pending
Which Claims Priority from Provisional Application	<u>60/093,339</u>	07-20-1998	Pending
Which Claims Priority from Provisional Application	<u>60/092,472</u>	07-10-1998	Pending
Which Claims Priority from Provisional Application	<u>60/092,182</u>	07-09-1998	Pending
Which Claims Priority from Provisional Application	<u>60/091,978</u>	07-07-1998	Pending

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Which Claims Priority from Provisional Application	<u>60/091,982</u>	07-07-1998	Pending
Which Claims Priority from Provisional Application	<u>60/091,478</u>	07-02-1998	Pending
Which Claims Priority from Provisional Application	<u>60/091,519</u>	07-02-1998	Pending
Which Claims Priority from Provisional Application	<u>60/091,626</u>	07-02-1998	Pending
Which Claims Priority from Provisional Application	<u>60/091,633</u>	07-02-1998	Pending
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Which Claims Priority from Provisional Application	<u>60/091,646</u>	07-02-1998	Pending
Which Claims Priority from Provisional Application	<u>60/091,673</u>	07-02-1998	Pending
Which Claims Priority from Provisional Application	<u>60/091,360</u>	07-01-1998	Pending
Which Claims Priority from Provisional Application	<u>60/091,544</u>	07-01-1998	Pending
Which Claims Priority from Provisional Application	<u>60/090,862</u>	06-26-1998	Pending
Which Claims Priority from Provisional Application	<u>60/090,863</u>	06-26-1998	Pending
Which Claims Priority from Provisional Application	<u>60/090,676</u>	06-25-1998	Pending
Which Claims Priority from Provisional Application	<u>60/090,678</u>	06-25-1998	Pending
Which Claims Priority from Provisional Application	<u>60/090,690</u>	06-25-1998	Pending
Which Claims Priority from Provisional Application	<u>60/090,694</u>	06-25-1998	Pending
Which Claims Priority from Provisional Application	<u>60/090,695</u>	06-25-1998	Pending
Which Claims Priority from Provisional Application	<u>60/090,696</u>	06-25-1998	Pending
Which Claims Priority from Provisional Application	<u>60/090,429</u>	06-24-1998	Pending
Which Claims Priority from Provisional Application	<u>60/090,431</u>	06-24-1998	Pending
Which Claims Priority from Provisional Application	<u>60/090,435</u>	06-24-1998	Pending
Which Claims Priority from Provisional Application	<u>60/090,444</u>	06-24-1998	Pending
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Which Claims Priority from Provisional Application	<u>60/090,540</u>	06-24-1998	Pending
Which Claims Priority from Provisional Application	<u>60/090,542</u>	06-24-1998	Pending
Which Claims Priority from Provisional Application	<u>60/090,557</u>	06-24-1998	Pending
Which Claims Priority from Provisional Application	<u>60/090,349</u>	06-23-1998	Pending
Which Claims Priority from Provisional Application	<u>60/090,355</u>	06-23-1998	Pending

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Which Claims Priority from Provisional Application	<u>60/090,246</u>	06-22-1998	Pending
Which Claims Priority from Provisional Application	<u>60/090,252</u>	06-22-1998	Pending
Which Claims Priority from Provisional Application	<u>60/090,254</u>	06-22-1998	Pending
Which Claims Priority from Provisional Application	<u>60/089,947</u>	06-19-1998	Pending
Which Claims Priority from Provisional Application	<u>60/089,948</u>	06-19-1998	Pending
Which Claims Priority from Provisional Application	<u>60/089,952</u>	06-19-1998	Pending
Which Claims Priority from Provisional Application	<u>60/089,801</u>	06-18-1998	Pending
Which Claims Priority from Provisional Application	<u>60/089,907</u>	06-18-1998	Pending
Which Claims Priority from Provisional Application	<u>60/089,908</u>	06-18-1998	Pending
Which Claims Priority from Provisional Application	<u>60/089,532</u>	06-17-1998	Pending
Which Claims Priority from Provisional Application	<u>60/089,538</u>	06-17-1998	Pending
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Which Claims Priority from Provisional Application	<u>60/089,599</u>	06-17-1998	Pending
Which Claims Priority from Provisional Application	<u>60/089,600</u>	06-17-1998	Pending
Which Claims Priority from Provisional Application	<u>60/089,653</u>	06-17-1998	Pending
Which Claims Priority from Provisional Application	<u>60/089,440</u>	06-16-1998	Pending
Which Claims Priority from Provisional Application	<u>60/089,512</u>	06-16-1998	Pending
Which Claims Priority from Provisional Application	<u>60/089,514</u>	06-16-1998	Pending
Which Claims Priority from Provisional Application	<u>60/089,105</u>	06-12-1998	Pending
Which Claims Priority from Provisional Application	<u>60/088,858</u>	06-11-1998	Pending
Which Claims Priority from Provisional Application	<u>60/088,861</u>	06-11-1998	Pending
Which Claims Priority from Provisional Application	<u>60/088,876</u>	06-11-1998	Pending
Which Claims Priority from Provisional Application	<u>60/088,734</u>	06-10-1998	Pending
Which Claims Priority from Provisional Application	<u>60/088,738</u>	06-10-1998	Pending
Which Claims Priority from Provisional Application	<u>60/088,742</u>	06-10-1998	Pending
Which Claims Priority from Provisional Application	<u>60/088,810</u>	06-10-1998	Pending
Which Claims Priority from Provisional Application	<u>60/088,824</u>	06-10-1998	Pending
Which Claims Priority from Provisional Application	<u>60/088,826</u>	06-10-1998	Pending
Which Claims Priority from Provisional Application	<u>60/088,655</u>	06-09-1998	Pending
Which Claims Priority from Provisional Application	<u>60/088,167</u>	06-05-1998	Pending

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Which Claims Priority from Provisional Application	<u>60/088,202</u>	06-05-1998	Pending
Which Claims Priority from Provisional Application	<u>60/088,212</u>	06-05-1998	Pending
Which Claims Priority from Provisional Application	<u>60/088,217</u>	06-05-1998	Pending
Which Claims Priority from Provisional Application	<u>60/088,021</u>	06-04-1998	Pending
Which Claims Priority from Provisional Application	<u>60/088,025</u>	06-04-1998	Pending
Which Claims Priority from Provisional Application	<u>60/088,026</u>	06-04-1998	Pending
Which Claims Priority from Provisional Application	<u>60/088,028</u>	06-04-1998	Pending
Which Claims Priority from Provisional Application	<u>60/088,029</u>	06-04-1998	Pending
Which Claims Priority from Provisional Application	<u>60/088,030</u>	06-04-1998	Pending
Which Claims Priority from Provisional Application	<u>60/088,033</u>	06-04-1998	Pending
Which Claims Priority from Provisional Application	<u>60/088,326</u>	06-04-1998	Pending
Which Claims Priority from Provisional Application	<u>60/087,827</u>	06-03-1998	Pending
Which Claims Priority from Provisional Application	<u>60/087,607</u>	06-02-1998	Pending
Which Claims Priority from Provisional Application	<u>60/087,609</u>	06-02-1998	Pending
Which Claims Priority from Provisional Application	<u>60/087,759</u>	06-02-1998	Pending
Which Claims Priority from Provisional Application	<u>60/087,106</u>	05-28-1998	Pending
Which Claims Priority from Provisional Application	<u>60/084,600</u>	05-07-1998	Pending
Which Claims Priority from Provisional Application	<u>60/083,322</u>	04-28-1998	Pending
Which Claims Priority from Provisional Application	<u>60/078,910</u>	03-20-1998	Pending
Which Claims Priority from Provisional Application	<u>60/075,945</u>	02-25-1998	Pending
Which Claims Priority from Provisional Application	<u>60/066,770</u>	11-24-1997	Pending
Which Claims Priority from Provisional Application	<u>60/065,311</u>	11-13-1997	Pending
Which Claims Priority from Provisional Application	<u>60/065,186</u>	11-12-1997	Pending
Which Claims Priority from Provisional Application	<u>60/062,250</u>	10-17-1997	Pending
Which Claims Priority from Provisional Application	<u>60/049,787</u>	06-16-1997	Pending

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None of which are international applications, therefore applicants argument that Ashkenazi et al has an effective filing date of November 4, 2001 is not persuasive.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karen A. Canella whose telephone number is (571)272-0828.

The examiner can normally be reached on 10 a.m. to 9 p.m. M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Siew can be reached on (571)272-0787. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Karen A. Canella, Ph.D.
5/31/2005


KARENA. CANELLA PH.D.
PATENT EXAMINER

KARENA. CANELLA PH.D.
ER